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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,000	10/25/2001	Thomas Happel	12758-038001 / 2000P21802	9191
26161	7590	07/21/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			DAVIS, CYNTHIA L	
			ART UNIT	PAPER NUMBER
			2665	
DATE MAILED: 07/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/033,000	HAPPEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cynthia L Davis	2665	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 10-12, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chiu.

Regarding claim 1, establishing, via the network controller, a protected channel between the first and second transfer nodes and establishing a switched connection between the first and second transfer nodes in the protected channel is disclosed in Chiu, figure 2; column 19, lines 1-11 (the proxy SVC signaling sets up the SVC in the PVC); and column 77, lines 55-57. If the switched connection is interrupted as a result of an interruption in the protected channel, restoring the switched connection by restoring the protected channel is disclosed in column 77, lines 54-57 (since the system is PVC-based, the PVC must be restored in order to restore the SVCs) and column 85, lines 47-49 (disclosing restoration upon power failure).

Regarding claim 10, a first transfer node for transmitting and receiving signals in the communications network is disclosed in figure 2, element 101. A second transfer node for transmitting and receiving signals in the communications network is disclosed in figure 2, elements 175 and 133. A network controller which establishes protected channel between the first and second transfer nodes, establishes a switched connection between the first and second transfer nodes in the protected channel column 19, lines 1-11 (the proxy SVC signaling sets up the SVC in the PVC); and column 77, lines 55-57. Restoring the switched connection by restoring the protected channel if the switched connection interrupted as result interruption in the protected channel is disclosed in column 77, lines 54-57 (since the system is PVC-based, the PVC must be restored in order to restore the SVCs) and column 85, lines 47-49 (disclosing restoration upon power failure).

Regarding claims 2 and 11, the protected channel comprises a path that can accommodate a plurality of switched connections is disclosed in column 77, lines 54-57 (the PVC-based loop can accommodate a plurality of SVCs).

Regarding claims 3 and 12, detecting an interruption in the switched connection is disclosed in column 55, lines 31-34 of Chiu (disclosing detecting faults in the network, this would include detecting faults in the proxy SVCs). Restoring the protected channel following the interruption in the switched connection is disclosed in column 62, lines 22-23 (the network has the capability to troubleshoot in the case of a fault; the PVC connection would have to be the connection that is restored, as the proxy SVCs are in the PVC).

Regarding claims 5 and 14, the protected channel is established in accordance with at least one of standard Q.2767.1 (05/98) and standard AF-PNNI-0055.000 (03/96) is disclosed in column 61, lines 18-22.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu.

Regarding claims 4 and 13, wherein the protected channel comprises a soft permanent connection is not specifically disclosed in Chiu. However, SPVCs are disclosed as being a known type of connection in the art at column 95, lines 40. It would have been obvious to one skilled in the art at the time of the invention to use an SPVC. The motivation would be to use a known type of PVC connection.

4. Claims 6-9 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu in view of Hassell.

Regarding claims 6 and 15, establishing an unprotected channel in parallel with the protected channel; wherein the switched connection between the first and second transfer nodes can be established in one of the protected channel and the unprotected channel is missing from Chiu. However, Hassell discloses in column 8, lines 32-36, routing a call over an SVC if its parallel PVC is congested. It would have been obvious

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to one skilled in the art to establish a parallel SVC and route a connection over the PVC or the SVC, depending on conditions. The motivation would be to avoid congestion in the PVC.

Regarding claims 7 and 16, deciding in which of the protected channel and the unprotected channel to establish the switched connection between the first and second transfer nodes is missing from Chiu. However, Hassel discloses in column 8, lines 32-36, routing a call over an SVC if its parallel PVC is congested. It would have been obvious to one skilled in the art to establish a parallel SVC and decide to route a connection over the PVC or the SVC, depending on conditions. The motivation would be to avoid congestion in the PVC.

Regarding claims 8 and 17, a sub-path exists between the first and second transfer nodes through which signal is transmitted from the first transfer node to the second transfer node, and wherein deciding is performed in the first transfer node is missing from Chiu. However, Hassel discloses in column 8, lines 32-36, routing a call over an SVC if its parallel PVC is congested (the SVC is the sub-path); the decision to do this is made by a router, which is the first transfer node. It would have been obvious to one skilled in the art at the time of the invention to have a parallel sub-path between the nodes, and have the first node decide which path to put the connection on. The motivation would be to avoid congestion in the main PVC.

Regarding claims 9 and 18, the protected channel is autonomously and independently established by the communications network is missing from Chiu. However, Hassel discloses in column 8, lines 32-36, routing a call over an SVC if its

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parallel PVC is congested; the SVC and PVC are independent. It would have been obvious to one skilled in the art at the time of the invention to independently establish the PVC. The motivation would be to have two independent paths through which to route calls, increasing redundancy in the system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia L Davis whose telephone number is (571) 272-3117. The examiner can normally be reached on 8:30 to 6, Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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